

The Gazette of India



सत्यमेव जयते

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 62] NEW DELHI, FRIDAY, DECEMBER 28, 1951

MINISTRY OF LAW

New Delhi, the 28th December, 1951

The following President's Acts enacted on the 28th December, 1951, are published for general information :—

THE PUNJAB OCCUPANCY TENANTS (VESTING OF PROPRIETARY RIGHTS) ACT, 1951

No. VIII OF 1951

An Act to vest proprietary rights in occupancy tenants and to provide for payment of compensation to the landlords whose rights are extinguished and for certain consequential and incidental matters.

[28th December, 1951]

In exercise of the powers conferred by section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951 (XLVI of 1951), the President is pleased to enact as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951.

(2) It extends to the whole of the State of Punjab.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "appointed day" means—

(i) in relation to any tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant of any land in the revenue records, the date of such commencement;

(ii) in relation to any tenant who obtains a right of occupancy in any land after the commencement of this Act, the date on which he obtains such right of occupancy;

(b) "Collector" means the Collector of the district in which the land, in respect of which proprietary rights are vested in an occupancy tenant under this Act, is situate, and includes any officer not below the rank of an Assistant Collector of the First-Grade specially empowered by the State Government to perform the duties of a Collector under this Act;

(c) "Commissioner" and "Financial Commissioner" have the meanings respectively assigned to them under the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887);

(d) "land", "land revenue" and "rent" have the meanings respectively assigned to them in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887);

(e) "landlord" means a person under whom an occupancy tenant holds land and to whom the occupancy tenant is, or but for a special contract would be, liable to pay rent for that land, and includes the predecessors and successors in interest of a landlord;

(f) "occupancy tenant" means a tenant who, immediately before the commencement of this Act, is recorded as an occupancy tenant in the revenue records and includes a tenant who, after such commencement, obtains a right of occupancy in respect of the land held by him whether by agreement with the landlord or through a court of competent jurisdiction or otherwise, and includes also the predecessors and successors in interest of an occupancy tenant.

3. Vesting of proprietary rights in occupancy tenants and extinguishment of corresponding rights of landlords.—Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, on and from the appointed day—

(a) all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time being in force) of the landlord in the land held under him by an occupancy tenant shall be extinguished and such rights, title and interest shall be deemed to vest in the occupancy tenant free from all encumbrances, if any, in the land created by the landlord;

(b) the landlord shall cease to have any right to collect or receive any rent or any share of the land revenue in respect of such land and his liability to pay land revenue in respect of the land shall also cease;

(c) the occupancy tenant shall pay direct to the Government the land revenue accruing due in respect of the land;

(d) the occupancy tenant shall be liable to pay, and the landlord concerned shall be entitled to receive and be paid, such compensation as may be determined under this Act

4. Determination of compensation payable to landlord.—(1) Any landlord whose rights have been extinguished under section 3 may, within twelve months from the appointed day, apply to the Collector, in such form as may be prescribed, for the determination of the amount of compensation payable to him by the occupancy tenant.

Provided that the Collector may entertain the application after the expiry of the said period of twelve months if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(2) On receipt of an application under sub section (1), the Collector shall issue notice to the parties concerned and, after giving the parties an opportunity of being heard and after making such inquiry as may be prescribed, shall make an award determining the amount of compensation payable by the occupancy tenant to the landlord in accordance with the provisions of section 5.

(3) Where there is any dispute as to the person or persons who are entitled to the compensation, the Collector shall decide such dispute and if the Collector finds that more than one person is entitled to compensation, he shall apportion the amount thereof amongst such persons.

(4) Where the compensation is payable to a minor or to a person having a limited interest, the Collector may make such arrangements as may be equitable having regard to the interests of the minor, the parties concerned and their reversioners.

5. Principles of compensation.—The amount of compensation payable to the landlord under this Act shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the rent payable by the occupancy tenant is expressed in terms of the land revenue in respect of the land, the amount of compensation shall,—

(i) if the right of occupancy has been obtained on any of the grounds specified in section 5 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887), be equal to the annual rent (exclusive of land revenue and cesses) *plus* one anna for every rupee of the annual land revenue multiplied in each case by twentyfive;

(ii) in any other case, be equal to the annual rent (exclusive of land revenue and cesses) *plus* two annas for every rupee of the annual land revenue multiplied in each case by twentyfive;

Illustration (A).—If the annual rent (exclusive of land revenue and cesses) is Rs. 50 and the land revenue payable annually is Rs. 100, then, in a case coming under clause (i), the amount of compensation will be $(Rs. 50 + Rs. 10) \times 25 = Rs. 1,500$.

Illustration (B).—If the annual rent (exclusive of land revenue and cesses) is Rs. 50 and the land revenue payable annually is Rs. 100, then, in a case coming under clause (ii), the amount of compensation will be $(Rs. 50 + Rs. 20) \times 25 = Rs. 1,750$;

(b) where the rent payable by the occupancy tenant is not in any way expressed in terms of the land revenue in respect of the land, the amount of compensation shall,—

(i) if the rent is paid in cash, whether as a fixed amount or at a fixed rate with reference to the area of the land, be equal to twenty times the average annual rent in respect of the land;

(ii) if the rent is paid by a division or appraisement of the produce on the basis of *batai*, bear the same proportion to average market value of the land as the landlord's share of the produce bears to entire produce of the land:

Provided that the amount of compensation shall in no case exceed one-fourth share of the market value so determined.

(iii) if the rent is paid partly in cash (whether as a fixed amount or at a fixed rate with reference to the area of the land) and partly as a share of the produce, be equal to twenty times the average annual rent in respect of the land.

Provided that the amount of compensation shall in no case exceed one-fourth share of the average market value of the land.

Explanation.—For the purpose of determining the average market value of the land or average annual rent under this clause, the average of the market value of the land, or as the case may be, of the rent paid or payable, and in any case where rent is a share of the produce, the average of the price of the produce, during a period of fifteen years commencing from the 1st day of June 1935, shall be taken into account.

6. Payment of compensation.—(1) The compensation awarded under this Act shall either be paid in cash or be deposited with the Collector by the occupancy tenant within a period of three months of the date of the award:

Provided that the Collector may, having regard to the amount of compensation or for other reasons and after recording his reasons for so doing, allow the occupancy tenant to pay the compensation in such six monthly instalments, not exceeding in any case six years, as he thinks fit.

(2) Where the occupancy tenant makes a default in the payment of compensation in accordance with the terms of the award, the amount due may be recovered in the same manner as an arrear of land revenue.

7. Appeal, review and revision.—(1) An appeal shall lie from—

(a) any award or order made by the Collector, to the Commissioner; and

(b) any order of the Commissioner, to the Financial Commissioner:

Provided that when an original award or order is confirmed on first appeal, a further appeal shall not lie.

(2) The Collector, the Commissioner or the Financial Commissioner may, either of his own motion or on the application of the party interested, review and on such review, modify, reverse or confirm any order passed by himself or by any of his predecessors in office; and such power shall be exercised subject to the provisions, so far as they may be applicable, of section 82 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(3) With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Collector or the Commissioner as provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(4) The period of limitation for an appeal under this section shall run from the date of the award or order appealed against and shall be as follows:—

(a) when the appeal lies to the Commissioner	..	sixty days.
--	----	-------------

(b) when the appeal lies to the Financial Commissioner	..	ninety days.
--	----	--------------

(5) In computing the period for an appeal from an award or order under this Act, the Indian Limitation Act, 1908 (IX of 1908) shall apply.

(6) For the purposes of this Act, the Collector, the Commissioner and the Financial Commissioner may, in so far as may be necessary or expedient to do so, exercise all the powers of a revenue officer or a revenue court as the case may be under the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

8. Certain mortgages and charges not enforceable against land held by occupancy tenants.—Notwithstanding anything contained in any contract or in any law for the time being in force, no claim or liability, whether under any decree or order of a civil court or otherwise, enforceable against a landlord for any money which is charged on, or is secured by a mortgage of, any land held under him by an occupancy tenant, shall be enforceable against the land, and every such claim or liability shall be deemed to be a charge on the compensation payable to the landlord in respect of such land.

9. Act not to apply to evacuee property.—Nothing in this Act shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950).

10. Bar of jurisdiction.—Save as otherwise expressly provided in this Act, every award or order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Act, shall be called in question by any court or before any officer or authority.

11. Bar to legal proceedings.—No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

12. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which an application for determination of compensation may be made by the landlord;

(b) the form of notice and the manner in which notices may be served under this Act;

(c) the manner in which inquiries may be held under this Act;

(d) the manner in which compensation may be paid;

(e) the manner in which appeals and applications for review and revision may be filed;

(f) any other matter which has to be, or may be, proscribed.

RAJENDRA PRASAD,

President.

Reasons for the enactment.

In March 1949, a Land Reforms Committee was appointed by the Government of Punjab to examine the tenancy legislation in force in that State and to suggest ways and means to ameliorate the economic condition of tenants. One of the recommendations of that Committee was that occupancy tenants should be given proprietary rights in their tenancies on payment of suitable compensation to the landlords. The Committee was of the view that conferment of proprietary rights in land on the actual tiller of the soil was in conformity with modern trends of thought. The Committee also felt that, because of the tension prevailing between occupancy tenants and their landlords, neither the tenant nor the landlord was in a position to develop the land to its utmost. The President has enacted the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951, in order to give effect to the recommendation made by the Land Reforms Committee. Under this Act, occupancy tenants will become full proprietors of their tenancies on payment of compensation as determined by the Collector on the principles specified therein.

H. V. R. IENGAR,

*Secretary to the Government of India,
Ministry of Home Affairs.*

THE PUNJAB ABOLITION OF ALA MALIKIYAT AND TALUKDARI RIGHTS ACT, 1951.

No. IX of 1951

An Act to abolish the rights of superior proprietors, to confer full proprietary rights on inferior proprietors in land held by them and to provide for payment of compensation to the superior proprietors whose rights are extinguished and for certain consequential and incidental matters.

[28th December, 1951]

In exercise of the powers conferred by section 8 of the Punjab State Legislature (Delegation of Powers) Act, 1951 (XLVI of 1951), the President is pleased to enact as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Punjab Abolition of Ala Malikiyat and Talukdari Rights Act, 1951.

(2) It extends to the whole of the State of Punjab.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires—

(a) “adna malik” means, in the case of land in which the proprietary rights are divided between superior and inferior owners, the inferior owner;

(b) “ala malik” means, in the case of land in which the proprietary rights are divided between superior and inferior owners, the superior owner and includes a talukdar;

(c) "appointed day" means the date on which this Act comes into force under sub-section (3) of section 1;

(d) "Collector" means the Collector of the district in which the land, in respect of which the rights of ala malik are abolished, is situate and includes any officer not below the rank of an Assistant Collector of the First-Grade specially empowered by the State Government to perform the duties of a Collector under this Act;

(e) the expressions "land", "land revenue", "rent" and any other expression not defined, but used, in this Act shall have the meanings respectively assigned to them in the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887);

(f) the expression "Financial Commissioner" and "Commissioner" have the meanings respectively assigned to them under the Punjab Land Revenue Act, 1887 (Punjab Act XVII of 1887).

3. Abolition of rights of ala maliks and vesting of full proprietary rights in adna maliks.—Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, on and from the appointed day—

(a) all rights, title and interest (including the contingent interest if any, recognised by any law, custom or usage for the time being in force) of an ala malik in the land held under him by an adna malik shall be abolished; and full proprietary rights shall be deemed to vest in the adna malik free from all encumbrances, if any, in the land created by the ala malik;

(b) the ala malik shall cease to have any right to collect or receive any rent or customary due in respect of such land,

(c) the ala malik shall be entitled to receive and be paid such compensation as may be determined under this Act.

4. Determination of compensation payable to ala maliks.—(1) Any ala malik whose rights have been extinguished under section 3 may, within twelve months from the appointed day, apply to the Collector, in such form as may be prescribed, for the determination of the amount of compensation payable to him:

Provided that the Collector may entertain the application after the expiry of the said period of twelve months if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(2) On receipt of an application under sub-section (1), the Collector shall issue notice to the parties concerned and, after giving the parties an opportunity of being heard and after making such inquiry as may be prescribed, shall make an award determining the amount of compensation payable to the ala malik in accordance with the provisions of section 5.

(3) Where there is any dispute as to the person or persons who are entitled to the compensation, the Collector shall decide such dispute and if the Collector finds that more than one person is entitled to compensation, he shall apportion the amount thereof amongst such persons.

(4) Where the compensation is payable to a minor or to a person having a limited interest, the Collector may make such arrangements as may be equitable having regard to the interests of the minor, the parties concerned and their reversioners.

(5) The amount of compensation determined under this section shall be payable by the adna malik.

Provided that where a portion of the annual rent or other dues is payable by the Government, that portion of the compensation, which bears the same proportion to the total amount of compensation as the share of the Government in the annual rent or other dues bears to the total amount of rent or other dues, shall be paid by the Government.

5. Principles of compensation.—The amount of compensation payable to the ala malik under this Act shall be eight times the amount of annual rent or other dues, if any, payable to the ala malik, whether by the adna malik or whether partly by adna malik and partly by the Government:

Provided that where the rent or other dues is or are paid wholly or partly in kind, the amount of such annual rent or other dues shall be calculated on the basis of the average of the price of the produce during a period of fifteen years, commencing from the 1st day of June, 1935.

6. Payment of compensation.—(1) The compensation awarded under this Act shall either be paid in cash or be deposited with the Collector by the adna malik or, as the case may be, by the Government within a period of three months of the date of the award:

Provided that the Collector may, having regard to the amount of compensation or for other reasons and after recording his reasons for so doing, allow the adna malik to pay the compensation in such six monthly instalments not exceeding in any case six years, as he thinks fit.

(2) Where the adna malik makes a default in the payment of compensation in accordance with the terms of the award, the amount due may be recovered in the same manner as an arrear of land revenue.

7. Appeal, review and revision.—(1) An appeal shall lie from—

(a) any award or order made by the Collector, to the Commissioner; and

(b) any order of the Commissioner, to the Financial Commissioner:

Provided that when an original award or order is confirmed on first appeal, a further appeal shall not lie.

(2) The Collector, the Commissioner or the Financial Commissioner may, either of his own motion or on the application of the party interested, review and on such review modify, reverse or confirm any order passed by himself or by any of his predecessors in office; and such power shall be exercised subject to the provisions, as far as they may be applicable, of section 82 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(3) With respect to all matters dealt with under this Act, the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the Collector or the Commissioner as provided in section 84 of the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

(4) The period of limitation for an appeal under this section shall run from the date of the award or order appealed against and shall be as follows:—

(a) when the appeal lies to the Commissioner ... **sixty days.**

(b) when the appeal lies to the Financial Commissioner ... **ninety days.**

(5) In computing the period for an appeal from an award or order under this Act, the Indian Limitation Act, 1908 (IX of 1908) shall apply.

(6) For the purposes of this Act, the Collector, the Commissioner and the Financial Commissioner may, in so far as may be necessary or expedient to do so, exercise all the powers of a revenue officer or a revenue court as the case may be under the Punjab Tenancy Act, 1887 (Punjab Act XVI of 1887).

8. Certain mortgages and charges not enforceable against land held by adna maliks.—Notwithstanding anything contained in any contract or in any law for the time being in force, no claim or liability, whether under any decree or order of a civil court or otherwise, enforceable against an ala malik for any money which is charged on, or is secured by a mortgage of, any land held under him by an adna malik, shall be enforceable against the land, and every such claim or liability shall be deemed to be a charge on the compensation payable to the ala malik in respect of such land.

9. Act not to apply to evacuee property.—Nothing in this Act shall apply to evacuee property as defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950).

10. Bar of jurisdiction.—Save as otherwise expressly provided in this Act, every award or order made by the Collector, Commissioner or Financial Commissioner shall be final, and no proceeding or order taken or made under this Act shall be called in question by any court or before any officer or authority.

11. Bar to legal proceedings.—No prosecution, suit or other legal proceeding shall lie against the State Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

12. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which an application for determination of compensation may be made by the ala malik;

(b) the form of notice and the manner in which notices may be served under this Act;

(c) the manner in which inquiries may be held under this Act;

(d) the manner in which compensation may be paid;

(e) the manner in which appeals and applications for review and revision may be filed;

(f) any other matter which has to be, or may be, prescribed.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

In March 1949, a Land Reforms Committee was appointed by the Government of Punjab to examine the tenancy legislation in force in the State and to suggest ways and means to ameliorate the economic condition of the tenants. One of the recommendations of the Land Reforms Committee was that the rights of Ala Maliks and Talukdars should, on payment of compensation, be extinguished. This recommendation was accepted by Government on the ground that Ala Maliks and Talukdars had no real connection with the land. The President has enacted the Punjab Abolition of Ala Malikyat and Talukdari Rights Act, 1951, in order to give effect to the recommendation made by the Land Reforms Committee. The Act seeks to extinguish the rights of Ala Maliks and Talukdars on payment of compensation on the basis of eight years' annual income, the compensation being payable by the persons who are at present responsible for paying the dues of the Ala Maliks and Talukdars. This measure will take effect from the date the Act is brought into force by the State Government.

~~H. V. R. LINGAR,~~
Secy. to the Govt. of India,
Ministry of Home Affairs